

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PRUDENTIAL INVESTMENT
MANAGEMENT SERVICES LLC,
and PRUDENTIAL BANK & TRUST,
FSB,

Plaintiffs,

—against—

MICHAEL J. FORDE, MARY JANE
FORDE, THE NEW YORK CITY
DISTRICT COUNCIL OF CARPENTERS
ANNUITY FUND, FRANK G.
SPENCER, JOHN BALLANTYNE,
DOUGLAS J. MCCARRON, PAUL
TYZNAR, BRYAN M. WINTER, JOHN
DELOLLIS, CATHERINE CONDON,
DAVID T. MEBERG, PAUL O'BRIEN
and KEVIN O'CALLAGHAN,

Defendants.

Civil Action No. 12-cv-5168 (LBS)

ECF Case

**REPLY IN SUPPORT OF
PLAINTIFFS' MOTION TO
DISMISS COUNTERCLAIMS BY
DEFENDANTS MICHAEL J.
FORDE AND MARY JANE FORDE**

Defendants Prudential Investment Management Services LLC and Prudential Bank & Trust, FSB (together, "Prudential") filed and served a motion to dismiss Michael J. and Mary Jane Forde's counterclaims on September 14, 2012. The Fordes did not file or serve any papers in opposition to the motion, which were due on September 28, 2012 pursuant to Local Rule 6.1(b). Prudential therefore requests that its unopposed motion be granted and that the Fordes' counterclaims be dismissed in their entirety and with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for the reasons set forth in Prudential's motion and supporting papers. *See, e.g., St. Paul Fire & Marine Ins. Co. v.*

Ayn Enters., No. 08-cv-465 (BSJ), 2010 U.S. Dist. LEXIS 39721, at *9 (S.D.N.Y. Apr. 21, 2010) (granting motion to dismiss cross-claims because no opposition was filed).

Dated: New York, New York
October 5, 2012

Respectfully Submitted,

BRUNE & RICHARD LLP

By: /s/ David Elbaum

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David Elbaum
Matthew Popowsky
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Investment Management Services, LLC
and Prudential Bank & Trust FSB*